

REMARKS

Claims 35-60 are pending. Claims 36-60 were indicated as allowable in the Notice of Allowance dated April 18, 2007. Dependent claim 42 has been amended to correct an obvious typographical error. New dependent claims 61-68 have been added to allowed independent claims 43. New dependent claims 69-74 have been added to allowed independent claim 47 and corresponding existing dependent claims 50 and 53. New dependent claims 75-82, which are similar dependent claims to newly added dependent claims 61-68, have been added to allowed independent claim 58. New dependent claims 83-88, which are similar dependent claims to newly added dependent claims 69-74, have been added to independent claim 60. Support for these newly added dependent claims can be found, for example, in the claim limitations recited in existing claims 39, 40, 45, 50 and 53 and the corresponding paragraphs in the specification supporting those existing claim limitations, as well as paragraphs 014-020, 222-223 and 264 of the specification and Figs. 17-20. No new matter has been added.

Telephonic Interview

The applicant's attorney thanks the Examiner for the courtesy extended during the brief telephonic interviews of the above-referenced application on June 4, 2007 and June 6, 2007, during which the Examiner advised the applicant's attorney of an issue with respect to inventorship of the present application and the applicant's attorney advised the Examiner of the intention to file the present Request for Continuing Examination to address the issue of inventorship and to present additional prior art references and materials to be made of record in the case in light of recent case law.

Inventorship

The present application was originally filed with missing parts and with an oath taken from a parent application, Serial No. 09/799,325, which was a continuation-in-part application filed March 5, 2001, in which inventor Timothy Haines was named as a sole inventor and the power of attorney was to the attorney in another law firm. In filing the response to missing parts on November 15, 2004, a new combined declaration and power of attorney in favor of the applicant's current attorney was filed executed by both of the named inventors Timothy Haines and David Goldstein who are named inventors on all of the remaining parent applications to which the present application claims priority. A response to request corrected filing receipt was mailed on December 1, 2004, indicating that the newly submitted declaration was not being entered because "Changes made after submission of an executed declaration to the inventor information other than correction of typographical errors must be submitted in the form of a substitute declaration. Change of inventorship requires a petition under 37 CFR 1.48."

A petition for correction of inventorship was prepared and originally executed in October 2005. Prior to filing the petition, however, original claims 1-34 were cancelled and new claims 35-54 were added by preliminary amendment dated February 24, 2006. An initial evaluation of the inventorship of the newly added claims 34-54 indicated that Mr. Haines was the sole inventor and thus the originally executed declaration was thought at the time of the filing of the preliminary amendment to have been sufficient for the claims then of record. A further investigation of the inventorship of the present application was undertaken in response to both a telephone inquiry to the applicant's attorney by the Examiner on June 4, 2007, as well as a

formal review of the file prior to payment of the issue fee by the applicant's attorney on May 24, 2007. This investigation determined that the proper inventorship of the claims of the present application should be both Mr. Haines and Mr. Goldstein. Accordingly, a Petition to Correction Inventorship – Adding Inventor Nonprovisional Application is submitted herewith, together with the appropriate paperwork to correctly name the inventors for the present application.

Information Disclosure Statement

Submitted herewith is a third Information Disclosure Statement. Upon review of the file prior to payment of the issue fee, it was determined that certain of the patents issued from applications in the chain of priority claimed by the present application had been unintentionally omitted from the IDS 1449 form previously submitted. While MPEP 2001.06(b) indicates that the Examiner will have reviewed the applications and prior art cited in any continuation, divisional or continuation-in-part to which a patent application claims priority, applicant's attorney is submitting this information for purposes of completeness of the IDS 1449 forms. While the applicant's attorney believes that the subject matter of the present application is patentably distinct from the claimed subject matter of any of the parent applications, and, as such, no terminal disclaimer should be required, the Examiner is respectfully asked to review parent applications that issued as U.S. Patent Nos. 5,514,139, 5,643,272, and 5,810,827, as part of a review of the necessity for a terminal disclaimer relative to any patents issuing from any of the prior parent applications.

In addition, the Information Disclosure Statement presents a number of additional references which are believed to be cumulative of the art already of record, but in accordance

with MPEP 2004(10) these references are being submitted for avoidance of any doubt with respect to these references. The cited references deemed most relevant by the applicant and the applicant's attorney to the claims of the present application were initially presented in the Information Disclosure Statement submitted on February 24, 2006 in connection with the original presentation of claims 35-54 by the Preliminary Amendment also submitted on February 24, 2006. A second Information Disclosure Statement presenting additional potentially relevant references was submitted on March 7, 2006.

Finally, the Information Disclosure Statement makes of record all of the corresponding international cases claiming priority to the chain of parent applications of the present application, including any substantive search reports, office actions and responses submitted as part of the prosecution of these cases.

Prosecution of this Continuation Application

Although applicant's current attorney did not prosecute any of the parent applications to which the present application claims priority, applicant's current attorney has reviewed the file histories of the parent applications and, to the best of the knowledge of the undersigned, there are no arguments or positions taken during the prosecution of the parent applications that are contrary to any arguments or positions made during the prosecution of the present application. Although the applicant's attorney does not believe that there is any need to burden the Examiner with review of every filing made during the course of the prosecution of the parent applications by citing each such filing as an additional material as part of an IDS 1449 form, the Examiner is encouraged to review the file histories of the parent applications as part of the review of the

parent patents identified and submitted in the Information Disclosure Statement filed for the present application.

There are also three other co-pending applications also claiming priority to the parent applications of the present application, Application Serial Nos. 10/958,203, 10/967,673 and 10/977,365, all of which are indicated by their publication numbers in the IDS 1449 form submitted herewith. To date, no substantive prosecution has occurred in any of those cases.

Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is requested to telephone the undersigned to arrange for a telephonic interview before any further prosecution of this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'BR Pedersen', followed by a long horizontal line extending to the right.

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